

State of Wisconsin



2005 Assembly Bill 254

Date of enactment: **March 21, 2006**

Date of publication*: **April 4, 2006**

2005 WISCONSIN ACT 166

AN ACT to amend 93.07 (12); and to create 23.09 (2m), 23.114, 23.135, 28.025 and 28.05 (3) of the statutes; relating to: managing state forest lands, harvesting of timber from certain forested properties, emergencies on state forest lands, providing an exemption from emergency rule procedures, and requiring the exercise of rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1g. 23.09 (2m) of the statutes is created to read:

23.09 (2m) FOREST LAND PLANS AND MANAGEMENT.

(a) If the department develops, reviews, or implements a master plan or a management plan for any forest land under the jurisdiction of the department, the department shall consult with the chief state forester.

(b) The department shall manage forest land under its jurisdiction in a manner that is consistent with, and that furthers the purpose of, the designation of that forest land as a state forest, southern state forest, state park, state trail, state natural area, state recreation area, or similar designation.

SECTION 1r. 23.114 of the statutes is created to read:

23.114 Duties of the chief state forester. (1) (a) In this section, "state forest land" means all forested lands owned by this state and under the jurisdiction of the department.

(b) Except as provided in par. (c), the chief state forester may declare, and shall manage, emergencies that threaten state forest lands. The department shall promulgate rules specifying those emergencies over which the chief state forester shall have management responsibility. The emergencies specified in the rules shall include inva-

sive species or pest infestation, disease, and damage to timber from fire, snow, hail, ice, or wind.

(c) Paragraph (b) does not apply to a state of emergency declared by the governor under s. 166.03 and does not supersede the authority of the department of agriculture, trade and consumer protection under ch. 94.

(2) The chief state forester shall report directly to the secretary of the department.

SECTION 2. 23.135 of the statutes is created to read:

23.135 Forest land inventory and report. (1) In this section, "state forest land" means any parcel of 10 or more contiguous acres of forested land owned by this state and under the jurisdiction of the department.

(2) The department shall undertake and maintain a current inventory of state forest lands. The inventory shall specify the condition of the forest resources in state forest lands.

(3) If the department prohibits the use of timber harvesting on any state forest land, the department shall prepare a report that contains a projection of the long-term forest health effects, a projection of the economic effects, and a projection of the public benefits that result from that prohibition.

(4) (a) Except as provided in par. (b), if the department is required to prepare a report under sub. (3) for any state forest land, the department shall prepare that report by January 1, 2010, and every 15 years thereafter.

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(b) If the department is required to prepare a report under sub. (3) for any state forest land for which a master plan has not been approved, the department shall prepare that report upon approval of the master plan and every 15 years thereafter.

(5) The department shall submit the report required under sub. (3) to the council on forestry and to the appropriate standing committee in each house of the legislature under s. 13.172 (3).

SECTION 3. 28.025 of the statutes is created to read:

28.025 Annual allowable timber harvests. (1) In this section, "forested property" means forested property owned by this state and under the jurisdiction of the department from which timber is harvested.

(2) The department shall establish annual allowable timber harvests for each forested property. The department may establish a single annual allowable timber harvest that applies to 2 or more forested properties in a particular region of this state, as determined by the department, if each one of those forested properties is smaller than 5,000 forested acres and if all of the proceeds from the sale of timber harvested on those combined forested properties are credited to appropriations under s. 20.370 that provide funding for the same purpose, as determined by the department.

(3) (a) 1. By January 1, 2007, and biennially thereafter, the department shall submit a report to the council on forestry specifying the total timber harvest on each forested property for the previous biennium, except as provided under par. (b).

2. Notwithstanding subd. 1, the department shall submit its report to the council on forestry as required under subd. 1. by January 1, 2009, and biennially thereafter, if the forested property that is the subject of the report has not been inventoried by the department under s. 23.135.

(b) If, under sub. (2), the department establishes an annual allowable timber harvest for combined forest properties, the department may submit a report that specifies the total timber harvest for these combined properties.

(c) If the department submits a report under this section that states that the timber harvest for forested property in any biennium is less than 90 percent, or more than 110 percent, of the allowable timber harvest established under sub. (2), the council on forestry shall prepare a report containing the reasons for noncompliance and recommendations on methods of ensuring that the timber harvest is consistent with the annual allowable timber harvest established by the department under sub. (2). The council on forestry shall submit the report to the governor, to the department, and to the appropriate standing committees of the legislature under s. 13.172 (3).

SECTION 11. 28.05 (3) of the statutes is created to read:

28.05 (3) COOPERATING FORESTERS. (a) The department shall, by rule, establish a program that allows pri-

vate cooperating foresters to assist the state in the harvesting and sale of timber from state forest lands to meet the annual allowable timber harvest established under s. 28.025. The rule shall include provisions authorizing the department to contract with cooperating foresters for the purpose of harvesting and selling timber from state forest lands and authorizing cooperating foresters to receive a portion of the proceeds from each timber sale. The department shall establish in the rule a method for determining what portion of the proceeds received from each timber sale shall be paid to the private cooperating foresters for their services in assisting the division in the harvesting and sale of timber from state forest lands. The division shall ask the council on forestry to recommend a method for determining what portion of the proceeds received from each timber sale shall be paid to private cooperating foresters under the rule.

(b) Each private cooperating forester with whom the department contracts under par. (a) to harvest and sell timber from state forest lands shall be entitled to receive a portion of the proceeds from the sale of such timber in the amount determined by the department under par. (a).

SECTION 12. 93.07 (12) of the statutes is amended to read:

93.07 (12) PLANT PESTS. To conduct surveys and inspections for the detection and control of ~~injurious~~ pests injurious to plants, make, modify, and enforce reasonable rules needed to prevent the dissemination of pests, declare and manage emergencies relating to the detection and control of pests injurious to plants, provided that such declaration does not supersede the authority of the chief state forester under s. 23.114 or the department of natural resources under s. 26.30, and suggest methods of control.

SECTION 13. Nonstatutory provisions.

(1) The department of natural resources shall submit in proposed form the rules required under sections 23.114 (1) (b) and 28.05 (3) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 6th month beginning after the effective date of this subsection, unless the secretary of administration requires the department of natural resources to prepare an economic impact report under section 227.137 of the statutes for the proposed rules.

(2) Using the procedure under section 227.24 of the statutes, the department of natural resources shall promulgate rules required under sections 23.114 (1) (b) and 28.05 (3) of the statutes, as created by this act, for the period before the effective date of the permanent rules submitted under subsection (1). Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until the date on which permanent rules take effect. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the

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department is not required to provide a finding of emergency for a rule promulgated under this subsection.

SECTION 14. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 23.135 and 28.025 of

the statutes takes effect on the first day of the 13th month beginning after publication.

(2) The treatment of sections 23.114 (1) (b) and 28.05

(3) of the statutes takes effect on the first day of the 4th month beginning after publication.

